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Institute of Real Estate Management

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September 23, 1996

The Honorable William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: IB Docket No. 95-59, Preemption of Local Zoning Regulations of Satellite Earth Stations
CS Docket No. 96-83, Implementation of Section 207 of the Telecomm. Act of 1996

Dear Secretary Caton:

I am writing to you on behalf of the 9,400 members of the Institute of Real Estate Management (IREM), a National Association of REALTORS® affiliate of professional property managers, regarding the above referenced dockets.

IREM was founded in 1934 to provide a means of identifying and training competent property management professionals, according to stringent ethical and educational standards, in all real estate fields. Today, IREM's CERTIFIED PROPERTY MANAGERS® (CPM®s) manage 24 percent or 6.2 million of the nation's conventionally financed apartment units; 44 percent or 4.8 billion square feet of the nation's office building; and 9.6 percent of the nation's retail space.

The issue of preemption of local zoning regulations of satellite earth stations and the implementation of Section 207 of the Telecommunications Act of 1996 are very serious considerations for IREM members. The magnitude of the impact on IREM members of the final ruling on these issues cannot and should not be underestimated.

First and foremost, should a final rule on these regulations give viewers in apartment communities, office buildings and shopping centers the right to install, on balconies, windows or in common areas satellite dishes of one meter or less in diameter without prior approval of owners or property managers, the private property rights of the owner would be greatly infringed upon. The decision to allow dishes on a property should be free of government interference and should belong to the property owner or manager. Such a ruling would adversely affect the conduct of the property manager's business and raise various legal issues.

The liability of property owners and managers would increase dramatically as improper installation, weight or wind resistance of a satellite dish could create safety concerns to



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building occupants, employees or passers-by should the dish fall. Property damage due to improper installation may lead to water leakage in the building, corrosion of metal mounts or weakening of concrete causing structural problems and leading to safety issues, as well as very costly maintenance repair and loss of property value. The geographic location of a building along with placement of the dishes on that building could be a deadly combination. As one IREM member has stated, the Midwest gets severe winter and spring wind and rain storms. These storms wreak havoc upon anything attached to buildings along with many building components that were originally constructed such as shingles, siding and sheet metal, to name a few. A California member related her concerns about this regulation due in part to the dynamics of this earthquake prone state.

Who would pay for the maintenance of the dishes and any damages incurred by them? Surely, the onus should not be on the property owner or manager who had no choice in this decision. Yet, according to the Insurance Information Institute, about only 41% of renters carry renter's insurance to cover their losses in the event of a disaster. Is it realistic to assume that they will be covered in the event of damage to property by a satellite dish? Not likely.

Furthermore, it should be noted that the installation of a satellite dish cannot presume automatic services. It is our understanding that technical limitations exist regarding the positioning of dishes and a community-type dish or antenna may be totally impractical and uneconomical to provide service to a small universe of potential subscribers.

IREM urges the FCC not to rule in a manner which would override owner/renter agreements. Such agreements are created not only to protect building owners, but to provide a safe and secure atmosphere for residents. Such a ruling would greatly reduce an owner's and property manager's ability to provide this service to residents. Essentially a ruling giving residents a presumptive right to install their own satellite dish or demand a signal from a rooftop antennae would be a "taking" of the private property rights of property owners throughout the country and IREM does not believe this was the intent of Congress in passage of this Act nor do we believe the FCC has the jurisdiction to regulate such contractual agreements affecting private property.

IREM appreciates your serious consideration of these issues. The detrimental impact this rule would have on our industry must be recognized.

Sincerely,

A handwritten signature in black ink that reads "W. Alan Huffman". The signature is fluid and cursive, with a long, sweeping underline.

W. Alan Huffman, CPM®
Senior Vice President
Legislative Affairs Division